

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA
3

4 Francisco Arcibal,

5 Plaintiff

6 v.

7 Natasha Koch, *et al.*,

8 Defendants

Case No.: 2:23-cv-00630-CDS-BNW

Order Overruling Objection to Report and
Recommendation (R&R), Adopting R&R,
and Dismissing Case

[ECF Nos. 8, 10]

9 Pro se plaintiff Francisco Arcibal objects to the magistrate judge's recommendation that I
10 dismiss this action. ECF No. 8. For the reasons set forth herein, I overrule Arcibal's objection and
11 adopt the R&R in full. I also instruct the Clerk of Court to close this case.

12 This court "may accept, reject, or modify, in whole or in part, the findings or
13 recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). Further, 28 U.S.C. § 636(b)(1)
14 provides that if a party makes a timely objection to a magistrate judge's recommendation, then
15 this court is required to "make a de novo determination of those portions of the [report and
16 recommendation] to which objection is made." *See also* Fed. R. Civ. Pro. 72(b)(3); *see also* *Schmidt v.*
17 *Johnstone*, 263 F.Supp.2d 1219, 1226 (D. Ariz. 2003) (discussing the Ninth Circuit's view that
18 district courts are not required to review "any issue that is not the subject of an objection").

19 Arcibal timely objected on July 17, 2023. ECF No. 10. But his objection does not address
20 the reason that Magistrate Judge Weksler recommends that I dismiss this case, which is
21 Arcibal's failure to file an amended complaint curing the deficiencies identified in her screening
22 order. *See* ECF No. 8 ("[T]he Court granted Plaintiff leave to file an amended complaint no later
23 than June 1, 2023."). Liberally construed,¹ Arcibal's objection addresses the initial screening
24

¹ A document filed pro se must "be liberally construed." *Estelle v. Gamble*, 429 U.S. 97, 106 (1976).

1 order issued by the magistrate judge. *See generally* ECF No. 10. Objections to a magistrate judge's
2 recommendation that do nothing more than state a disagreement with the suggested
3 resolution—or simply summarize what has been presented before—are not objections as that
4 term is used in this context. 28 U.S.C. § 636(b)(1); *see also United States v. Brooks*, 2022 WL 1184368
5 (W.D.N.C. Apr. 21, 2022). Arcibal failed to comply with the court's deadline to file an amended
6 complaint, nor did he explain why he did not comply or seek additional time to do so. Further,
7 he failed to demonstrate that the magistrate judge's factual findings were clearly erroneous or
8 contrary to the law. As a result, I overrule Arcibal's objection, adopt the R&R in its entirety, and
9 dismiss this action.²

10 **Conclusion**

11 IT IS THEREFORE ORDERED that Arcibal's objection [ECF No. 10] is **OVERRULED**.

12 IT IS FURTHER ORDERED that Magistrate Judge Weksler's Report and
13 Recommendation [ECF No. 8] is **ADOPTED IN ITS ENTIRETY**. This action is dismissed
14 without prejudice. And the Clerk of Court is directed to **CLOSE THIS CASE**.

15 DATED July 21, 2023

16 
17 Cristina D. Silva
18 United States District Judge
19
20
21
22

23 _____
24 ² I note that the defendants were not served in this case, so I did not need to wait for a response to the
objection before ruling on it.